

The features and capabilities of APT's proposals were described in detail in its pioneer preference request, its applications for experimental authorization and in its Interim Progress Reports (June 15, 1992 and June 25, 1992). The results of both nationwide and market-specific demand studies by Arthur D. Little were presented in APT's Interim Progress Report (June 25, 1992) and its Third Progress Report (October 15, 1992) describing estimated EPMS penetration, adoption rates, projected revenue and demand at various price points. APT also documented projected EPMS system capital and operating costs to confirm the cost effectiveness of EPMS system operations in comparison with cellular and other cost models in its Interim Progress Report (June 25, 1992). The high spectral efficiency of EPMS was also described in that same report. APT's Third Progress Report (October 15, 1992) and its Fourth Progress Report (January 15, 1993) also describe the results of user surveys and questionnaires confirming the public benefits of the EPMS concept.

- (2) APT's EPMS "Service" Concept Is A Significant Communications Innovation As Confirmed In The PCS Experiments Of Others Who Have Followed And Reproduced Many Of APT's Developmental Efforts.

The Commission should credit APT for being the first to propose and successfully integrate PCS, paging and intelligent network capabilities into a working "service" offering. As described below, the subsequent efforts of American Personal Communications and Freeman Engineering validate APT's concept of

this new PCS "service" and underscore the importance of APT's innovation.

On July 28, 1992, approximately one year after APT originally proposed its EPMS "service" and approximately one month after APT had successfully demonstrated its feature-rich EPMS "service", American Personal Communications announced that it would begin a "new phase" of its experimental test program combining display pagers into the handsets used in its PCS demonstration system.³ The press release announcing this new phase of American Personal Communications test programs stated:

"We're very excited about this new phase of PCS testing. By adding paging capability to our phones, we give the customer the ability to be reached while adding little in the way of size, weight or cost, " said Albert Grimes, President of APC.

Our market research has indicated that while our trial participants were very happy with the basic unit in terms of physical attributes and cost, they wanted more, specifically the ability to be reached, and these new units move us one step closer toward meeting their requirements, Grimes added."⁴

As the originator of the concept, we too are excited about the synergies made possible through the integration of PCS, paging and intelligent network features in the EPMS "service." For all

³ Eighth Progress Report, American Personal Communications, File No. 2056-EX-ML-91.

⁴ PCS News, July 23, 1993, p. 4.

of the reasons presented in our filings, we believe that APT's innovative efforts justify a preference award.

Likewise, the fact that Freeman Engineering also identified the public benefits of combining PCS, paging and intelligent network features in its pioneer preference request (File No. PP-55) filed in May of 1992, nearly ten months after APT's request was filed, is significant recognition of merits of the innovative concept originated and developed by APT. The initial results of Freeman's experimentation were filed with the Commission on December 21, 1992, nearly six months after APT had put together a working system, duplicate and confirm many of the desirable attributes of the EPMS "services" demonstrated during APT's testing program.⁵ We agree with Freeman that the "convenience," "coverage," and "spectrum efficiency" made possible by the integration of paging and PCS operations provide important public benefits. As the originator and developer of these important concepts, we believe that award of a pioneer preference to APT is fully justified.

Ameritech has also announced a test program involving capabilities of PCS handsets with integrated pagers. A June, 1992 trade press article based upon an interview with an Ameritech spokesman states that Ameritech's program "will ulti-

⁵ Third Report, Freeman Engineering Associates, Inc. filed December 21, 1992.

mately evolve to use of a future [Motorola] Silverlink with a built-in pager." ⁶ We understand that a significant number of additional companies have also ordered 2 GHz handsets with integrated paging capacity with which to implement PCS "services." This widespread interest in packaging PCS and paging technologies in the PCS handset is additional confirmation of the development efforts of APT have led to a "significant communications innovation" involving an important segment of the PCS family of services.

- (3) The Recent Agreement Of Motorola And Glenayre Engineering To Market Jointly The System Components Developed For APT's EPMS "Service" Also Supports Award Of APT's Preference Request.

Motorola and Glenayre Engineering, two of the providers of equipment components for APT's EPMS system recently announced a joint sales agreement whereby Motorola will recommend the purchase of Glenayre's modular voice processing ("MVP") system as the primary "meet-me" switch for use with Motorola's Silverlink 2002 handset with integrated pager. This agreement is strong evidence supporting all of our prior submissions confirming the technical feasibility of the EPMS concept and the importance of the EPMS "service" capabilities to the future development of PCS.

⁶ Advanced Wireless Communications, June 24, 1992, p.3.

As described in the attached letter (Attachment A hereto) Glenayre acknowledges the key role of APT in originating and developing the EPMS concept, confirms that EPMS is a "significant communications innovation." While we believe that the technical feasibility of the EPMS service is self-evident from the fact that Motorola and Glenayre Engineering have entered into joint sales arrangements for the operating system which APT originally pioneered and developed, the foregoing letter of Glenayre Engineering also specifically confirms the technical feasibility of APT's concept.

Also attached is a letter of ~~from~~ Motorola (Attachment B) confirming the anticipated strong public demand for APT's "enhanced 'meet-me' paging PCS concept."⁷ Motorola states that its "high interest" in the innovative services pioneered by APT prompted it to enter into the joint sales arrangements for Glenayre's MVP system. The Motorola letter describes "the combination of low cost wireless phone service, small integrated handsets and total coverage via the paging network" as "...an extremely attractive offering to the public."

The foregoing is important independent confirmation of the showings and demonstrations we have already made on the record in support of our preference request. Motorola and Glenayre Engi-

⁷ The Motorola letter is addressed to Rudy Hornacek, who is President of APT as well as Vice President-Engineering of Telephone and Data Systems, Inc., which wholly owns APT.

neering are companies whose expert credentials in the wireless telecommunications industry are widely acknowledged. We request that the Commission give great weight to their submissions in deciding to reevaluate APT's preference request.

(4) Commenters Have Outlined Serious Procedural And Other Problems With The Commission's Tentative Decision Which Need To Be Addressed.

Numerous commenters have identified procedural errors and shortcomings which threaten to undermine the credibility, impartiality and validity of the Commission's evaluation of PCS pioneer preference requests and could lead to prolonged controversy and litigation.

The absence of clear standards for evaluation have led some commenters to question the total absence of tentative awards to innovators with "service" proposals. APT, PageMart and TRX, all of whom have filed requests either entirely or substantially based upon innovative "service" concepts, now challenge what PageMart calls "...the Commission's narrow focus on technology and equipment."⁸ We described in our comments the differences between "technology" development and "service" development both of which are specifically mentioned in the Commission's pioneer

⁸ PageMart Comments p. 6, Fn. 10. See also TRX Comments, pp. 18-19.

preference rules. Under the Commission's rules, no distinction is to be made between these different forms of innovation. Both are to be considered on their own merits. Yet the Commission has made tentative awards only for development of innovative "technology" or "equipment" in this proceeding suggesting that "service" proposals are being evaluated under a more restrictive standard than "technology" or "equipment" proposals.

We think that the foregoing underscores a basic problem with the Commission's decision both as it relates to "service" and "technology" proposals. We agree with Commissioner Barrett's observation "...that our pioneer preference docket needs to be strengthened to ensure adequate standards are used to evaluate applications in various dockets."⁹

The Commission should articulate precise standards for evaluation of "service" proposals in this proceeding. The opportunities for findings based upon erroneous or mistaken information, failure to consider material submissions, inconsistent application of evaluation criteria and other sources of error can only be avoided if there is adequate public awareness of the criteria on which the Commission's decisions are based. This step is necessary to restore confidence in the "fairness" of the evaluation process, to make sure that all pioneers who have

⁹ Separate Statement of Commissioner Andrew C. Barrett dated October 8, 1992, pp. 1-2.

made significant PCS development efforts are rewarded and to create appropriate incentives for development of "services" and "technologies" in future proceedings.

We also share the concerns of many commenters who object to the lack of any precise or detailed explanation of the grounds for the Commission's tentative denials. Associated PCN, Fleet Call, PageMart, Comcast, PCS/NY, Southwestern Bell, and Viacom among others all make this point. Viacom quotes from the U.S. Court of Appeals in support of its position that the Commission should:

"...articulate with reasonable clarity its reasons for decision, and identify the significance of the crucial facts, a course that tends to assure that the agency's policies effectuate general standards, applied without unreasonable discrimination."¹⁰

In fairness to APT and others in this proceeding who have made substantial commitments of financial and personnel resources to originate and develop innovative PCS concepts, the Commission should make findings in which its reasons and standards are clearly stated.

¹⁰ Greater Boston Television Corp. v. FCC, 444 F2d 841, 851 (D.C. Cir. 1970).

- (5) Reevaluation of its PCS Pioneer Preference Requests Should Address The Unique Factors Present in the Commission's PCS Proceedings.

The number of pioneer preference requests at issue here, the breadth of the "family" of PCS "services" and "technologies" revealed in more than one hundred and fifty experiments, the universal scope and massive demand projected for PCS services and the unprecedented developmental efforts of dozens upon dozens of businesses make this proceeding unique. Whatever general preconception the Commission might have had about the role of preference awards to encourage innovation cannot adequately describe the dramatic impact of these policies upon PCS innovation. We urge the Commission to tailor its pioneer preference policies to this PCS proceeding in recognition of these unique circumstances.

It is essential that the Commission recognize here the interrelated but fundamentally different roles of pioneers developing innovative PCS "services" from those developing PCS "technologies" or "equipment." We have described in our Comments how these developmental efforts are conceptually and empirically different. Successful development of an innovative "service" offering requires many different skills from those required for "technology" or "equipment" development. The public benefits from each type of innovation must be measured in different ways. Hence, the standards by which "service" proposals are evaluated

will also be very different from those for "technology" or "equipment" proposals.

This is why we have requested that the Commission reevaluate PCS "service" proposals separately from "technology" or "equipment" proposals before a final decision is made in the PCS docket. We also think these evaluations should be conducted with reference to specific criteria which are intended to reflect the public benefits of "service" proposals.

We also believe that expanding the number of preference awards in the Commission's final PCS decision is justified. We have already pointed out how the number, scope, and public impact of PCS developmental efforts is unprecedented. Significantly expanding the number of preference awards in recognition of the numerous contributions of APT and others to developing PCS "services" is logical and realistic. APT and other PCS pioneers who have shown their significant commitment to this new service should be included in the first generation of licensees on which the Commission can rely quickly to build a vigorous new PCS industry.

By expanding the number of preference awards, the Commission will also be able to avoid what Commissioner Duggan referred to

as "hairsplitting debates"¹¹ and situations, as Commissioner Barrett describes, "where it is difficult to make significant distinctions."¹² The Commission need not be distracted by such matters and, importantly, the successful launch of PCS need not be delayed because of unnecessary controversy if the number of preference awards were significantly expanded.¹³

CONCLUSION

The Commission's PCS proceeding presents a unique regulatory challenge to interpret and administer the Commission's pioneer preference policies to reward the significant development efforts of APT and others. The number, scope, and importance of these developmental efforts supporting the rapid, widespread, affordable availability of the new generation of wireless fully featured PCS services are unprecedented and far exceed the developmental efforts in the other rulemakings where the Commission has made preference awards. APT and others have made substantial contributions to developing the new generation of PCS services

¹¹ Concurring Statement of Commissioner Ervin S. Duggan, dated October 8, 1992, p. 1.

¹² Separate Statement of Commissioner Andrew S. Barrett, dated October 8, 1992, p. 1.

¹³ Commissioner Barrett has indicated that he would be "less concerned" about expanding the number of preference awards if there were "multiple licensees" in the service areas involved. We support this approach and strongly recommend MSA/RSA service areas for PCS with five licenses per service area.

and deserve to be rewarded. Reevaluation of the proposals of APT and others under standards which recognize the unique attributes of "service" development will confirm the soundness of an award to APT. Expanding the number of preference awards will make possible recognition of APT's innovative contributions and will help assure that APT which has already shown its commitment to PCS, will participate in the early launch of this important new industry.

Respectfully submitted,

AMERICAN PORTABLE TELECOMMUNICATIONS, INC.

By /s/ George Y. Wheeler

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Its Counsel

March 1, 1993

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February 22, 1993
FOR IMMEDIATE RELEASE

GLENAYRE ANNOUNCES JOINT SALES AGREEMENT WITH MOTOROLA TELEPOINT SYSTEMS DIVISION

New York, New York.....Glenayre Technologies, Inc. and Motorola have announced the signing of a joint agreement which calls for the Motorola's Telepoint Systems Division to act as commissioned agents when selling Glenayre's Modular Voice Processing (MVP[®]) System. Under the terms of the agreement, Motorola will recommend the purchase of Glenayre's MVP System to its customers as the primary "meet-me" switch for use with Motorola's SilverLink[®] 2002 CT2 handset with integrated pager.

Telepoint which employs CT2 technology provides wireless personal communication telephone service (non-cellular) through a network of digital base stations. Subscribers can place calls through the Telepoint System to the Public Switched Telephone Network (PSTN). The MVP System, which is designed, engineered and manufactured by Glenayre is an advanced voice messaging system with a number of personal communication features and services such as "meet-me," Constant Touch[®] and Call Manager. In the Telepoint System application, these features offered by the MVP System will enable subscribers to receive incoming calls through the handset's integrated pager, effectively turning the SilverLink CT2 telephone into a two-way communications device.

-more-

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Joint Sales Agreement

"Based on this agreement," stated Jack Hurley, President and Chief Operating Officer of Glenayre, "Glenayre's MVP System may be sold in conjunction with Motorola's Telepoint System to provide subscribers a variety of Personal Communication Service (PCS) advancements."

Both companies have been designing and manufacturing products for the wireless telecommunications industry for many years. Glenayre is listed on NASDAQ and traded under the symbol "GEMS."

Glenayre Technologies, Inc. changed its name from N-W Group, Inc. on November 10, 1992, following N-W Group's acquisition of the telecommunications equipment manufacturing business of Glenayre Electronics Ltd.

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Motorola and SilverLink are trademarks of Motorola, Inc.

MVP System and Constant Touch are trademarks of Glenayre Technologies, Inc.

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February 26, 1993

Dr. Thomas Stanley
Chief Engineer
Federal Communications Commission
2025 M Street, NW
Washington, D.C. 20554

Re: Pioneer Preference Request - American Portable
Telecommunications, Inc. (File No. PP-7)

Dear Dr. Stanley:

We are writing in support of American Portable Telecommunications, Inc. (APT) application for a pioneer preference award in PCS. We extend recognition of APT's key role in the development of its proposed EPMS service and the public benefits of the innovative service.

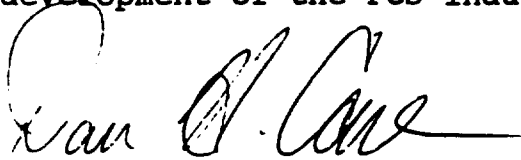
We confirm that to our knowledge APT was the first to propose the concept of a full featured customer controlled PCS service based upon the integration of PCS, paging and intelligent network capabilities.

APT participated in the development of this innovation, including initially identifying the potential of our MVP[™] product in this arena. APT's staff provided the vision of a customer (subscriber) controlled service offering. It was APT's overriding concern for customer control that led to the development of MVP's Constant Touch[™] series of features specifically the Call Manager feature. The MVP Call Manager was first field tested, in July 1992 as a part of APT's experimental test program in Orlando, Florida. This first working system was set up to demonstrate APT's EPMS utilizing the MVP system with Constant Touch[™] Call Manager capabilities. APT has continued to work with us to refine and enhance the capabilities of proposed EPMS service.

We support APT's conclusion that EPMS is a significant communications innovation combining added functionality, spectrally efficient use of PCS frequencies, reasonable cost to the public and high quality service. We believe that the innovations which APT originally proposed and has now demonstrated the technical feasibility of, will be a fundamental segment of the PCS "family" of services.

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Dr. Thomas Stanley

Our recently announced joint sales agreement with Motorola under which Motorola will recommend the purchase of Glenayre's MVP system as the "Meet-Me" switch for use with Motorola's Telepoint system using Silver-Link handsets, with integrated pager confirms our belief that the innovations associated with the MVP call manager and APT's EPMS service will have an important impact on the future development of the PCS industry.



Dan H. Case
Senior Vice President and General Manager
Glenayre Electronics Voice Systems Division

**MOTOROLA**

2/24/93

Rudy Hornacek
Vice President - Engineering
Telephone and Data Systems, Inc
30 N LaSalle Street - suite 4000
Chicago, IL 60602

Rudy:

I'm writing to reconfirm that our 1.9GHz Silverlink 2002 pager handsets will be shipping to you very shortly. We appreciate your patience and certainly share your enthusiasm and optimism concerning the implementation of your enhanced "meet-me" paging PCS concept.

We feel that standard CT2 Telepoint is and will continue to be inviting to mass markets who currently want wireless communications but can't afford a cellular-type service. In that same vain, however, the introduction of paging into this technology represents a big step forward in future PCS platforms. Motorola is a strong advocate of the CT2 with paging concept, and it is the advent of paging that will begin to tie in an essential missing ingredient of CT2 as we know it today... that being, ubiquity of coverage. We feel that the combination of low cost wireless phone service, small integrated handsets and total coverage via the paging network is an extremely attractive offering to the public. And as you know, our high interest in this service has recently prompted us to establish an agreement with Glenayre Technologies to function as a commissioned agent for their Modular Voice Processing System (MVP)... a service with which you are intimately familiar.

I look forward to hearing about your trial and wish you continued success in the months ahead.

Sincerely,

A handwritten signature in cursive script that reads "Marty Gilbert".

Marty Gilbert
Manager, US Sales Operations
Telepoint Systems Division

CERTIFICATE OF SERVICE

I, Abbie Weiner, a secretary in the law firm of Koteen & Naftalin, do hereby certify that a copy of the foregoing "Reply Comments of American Portable Telecommunications, Inc.", was sent by first class U.S. mail, postage prepaid, on this 1st day of March, 1993 to the offices of the following:

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